CHAPTER 2
POLICY AND STATUTORY ISSUES

This chapter addresses the following key policy issues related to HRS scoring:

- Source and site definition
- Scoring all pathways and threats
- Evaluating sites with waste removals
- CERCLA pollutants or contaminants
- Statutory and policy exclusions.

Although this chapter presents general information to help the scorer understand policy and statutory issues, it does not describe specific scoring strategies or provide detailed instructions. These are provided in the appropriate sections of the guidance.

2.1 SOURCE AND SITE DEFINITION

This section defines sources and sites and lists criteria for deciding whether multiple sources should be addressed, for purposes of HRS scoring, as one or more sites (this issue is sometimes referred to as site aggregation). The section also discusses special considerations for defining sites at Federal facilities. Section 4.2 addresses the related issue of how to group individual sources to facilitate scoring at a site that has already been defined to include multiple sources.

The HRS defines a source as any area where a hazardous substance has been deposited, stored, disposed, or placed, plus those soils that have become contaminated through migration (note that other media contaminated by migration usually are not considered sources). A site, for HRS purposes, can be any area or areas where a hazardous substance has been deposited, stored, disposed, or placed, or has otherwise come to be located (e.g., through migration). Thus, the definition of site is broader than the definition of source. A site may include multiple sources and may include the area between sources. For HRS purposes, the term site does not simply refer to legal property boundaries or fenced-in areas, but instead refers to the sources of hazardous substances and areas of hazardous substance contamination that are to be scored as a single unit, even if a site is listed for administrative or tracking purposes (e.g., in CERCLIS) in geographic or ownership terms. The area considered to be the site may change during the RI/FS and/or later remedial actions as the extent of contamination becomes better defined.

MULTIPLE SOURCES

When multiple sources are in an area, Regional EPA personnel must decide whether to treat the area as one site or as several sites for HRS scoring purposes. This decision should be made before scoring; however, new sources may be discovered during scoring or later remedial activities, which could result in redefining the site. Professional judgment and experience must be used in deciding, on a case-by-case basis, how to evaluate these newly discovered sources (e.g., whether to treat them as part of the existing site under evaluation, or whether to treat the newly discovered sources as a new site). Section 4.2 provides more information on evaluating sites where multiple sources may be grouped and considered a single source to simplify scoring.

Keep in mind the following criteria for defining sites in multiple source situations:

- Proximity of the sources to each other;
- Similarity of wastes contained in the sources;
- Similarity of targets (e.g., potential to affect one or more of the same aquifers, surface water bodies, sensitive environments, or populations); and
- Common owner, operator, or potentially responsible party (PRP).

These criteria are not a comprehensive list of requirements that must be met to address multiple sources as a single site, but instead are some of the site-specific factors that should be considered. Present any questions about grouping multiple sources to the EPA Regional contact.

FEDERAL FACILITIES

Federal facilities are often very large and encompass multiple potential sources of hazardous substances contamination. Because of their size, and the fact that Sls to collect the data for scoring are not supervised by EPA, it is not always possible to ensure that all areas of contamination have been identified, Moreover, issues of site ownership and the identity of responsible party(ies) are irrelevant to site definition. Because of these features, Federal facilities may be evaluated as one or more sites, depending on how the sources are clustered and how the releases are described in the scoring package. Below are some approaches for evaluating multiple sources at Federal facilities.

- Score the site based on a small number of sources, and describe the site at proposal as including those sources as well as all other contaminated areas within the boundaries of the facility. Thus, the site would include any contamination, either known at the time of proposal or discovered later, within those boundaries. This approach should be made very clear because of the potentially large scope of the site.
- Fully characterize the sources that drive the HRS score, but also describe other areas known or believed to be sources of contamination. Using this method, all sources characterized or generally described in the package, plus areas contaminated by migration from these sources, would be part of the NPL site.
- Include multiple sources in the same site if:
  - — They were part of the same operation or activity;
  - — They affect the same target population in one or more pathways; and
  - — They are in the same watershed.

As a general rule, sources at Federal facilities may be combined if the result is real environmental or cleanup benefits, even if sources are miles apart.

Even if sources at a Federal facility are not contiguous and may contain different hazardous substances from different activities, they can be grouped as a single site. Agency policy, established on September 8, 1983 (48 *Federal Register* 40663) when the first NPL was promulgated, is that noncontiguous releases and unrelated sources may be grouped together as one site. This policy is generally appropriate because of the presence of a single responsible party that will serve as lead agency for any response and with whom EPA may enter into an umbrella Interagency Agreement (IAG) for the site response. Remember, however, that Federal facilities also may be listed as several sites. For example, the Department of Energy (DOE) Hanford Facility is listed as four separate NPL sites, each containing multiple sources.

2.2 SCORING ALL PATHWAYS AND THREATS

The statutory mandate of the HRS is to assess, to the maximum extent feasible, the relative degree of risk to human health and the environment posed by sites under review. EPA uses the HRS as a screening tool in its site assessment process to identity sites that merit further investigation under Superfund. The site assessment program, however, has limited resources for identifying, evaluating, and scoring large numbers of sites. The competing goals of assessing relative risk to the maximum extent feasible and screening large numbers of sites have caused some confusion over whether to score all pathways and threats at a site when the additional effort will not change the site's listing status. The Agency must balance the need to characterize site risks for all pathways and threats with the constraints imposed by the limited resources available for data collection and analysis.

Generally, all pathways and threats that pose potentially significant risks to human health and the environment should be scored to reflect the importance of that pathway or threat to the overall evaluation of the site. The scorer should use professional judgment to evaluate the potential seriousness of the risk. Criteria to consider when deciding whether a pathway or threat should be scored include:

- Existence of documented releases or contaminated targets
- Potential magnitude of the pathway score
- Availability of scoring data
- Likely range of the overall site score (e.g., near the 28.50 cutoff or not).

In general, score the pathway if there is an observed release, if targets are subject to actual contamination, or if there are major target areas for the pathway.

If the contribution of a pathway or threat to the overall score is minimal, scoring and fully documenting the pathway may not be necessary, even if extensive data are available. As a general guideline, pathways and threats scoring less than 10 points usually do not need to be scored, unless the overall site score is near the cutoff. (Note that near 28.50, the most a 10-point pathway can add to an overall score is approximately half a point. See Section 3.4 for more details.) If a pathway is not scored, the scorer should describe the pathway and available data in the HRS package. This discussion helps present a more thorough and accurate picture of conditions at the site and may be useful later in the remedial process.

If a site score is close to the cutoff, score all pathways even if they add only a few points to the overall site score. In many cases, site scores drop after Quality Assurance review or response to public comments, and the initial inclusion of these additional pathways may keep the site above the cutoff.

In conclusion, the site assessment process should not be viewed simply as an exercise to achieve the maximum HRS score possible by always scoring every pathway, nor as a mechanical process that automatically ends when a score of 28.50 is reached. The scorer must make decisions about whether to score individual pathways or threats based on knowledge of the site, professional judgment and experience, and an understanding how the site score might be affected.

2.3 EVALUATION OF SITES WITH WASTE REMOVALS

A removal action is a relatively short-term response taken to eliminate a threat or prevent more serious environmental problems resulting from the release of CERCLA hazardous substances. Under the original HRS, a site was scored based on conditions that existed prior to a removal action. Under the revised HRS, waste removals (a specific type of removal action in which hazardous substances, or wastes containing hazardous substances, are physically removed from a site) may be considered for scoring purposes under certain circumstances. This section outlines the requirements for evaluating removal actions for HRS purposes, defines a qualifying removal, explains how to determine the cutoff date for qualifying removals, and discusses other relevant scoring issues. The waste removal policy is

designed to provide an incentive for rapid response actions by PRPs, reducing risks to the public and the environment and allowing for more timely and cost-effective cleanups. The Agency's waste removal policy is explained in greater detail in *The Revised Hazard Ranking System: Evaluating Sites After Waste Removals* (OSWER Publication 9345.1-03FS, October 1991).

REQUIREMENTS FOR CONSIDERING REMOVAL ACTIONS

In the preamble to the HRS (55 *Federal Register* 51567, December 14, 1990), EPA established three requirements that must be met for the results of a removal action to be considered in scoring a site with the HRS. A removal action that meets these three requirements is referred to as a qualifying removal.

The first requirement is that the removal action physically remove from the site wastes containing hazardous substances. Note that it is not necessary that all wastes from the site or even all wastes from a particular source be removed; partial removals can be considered in scoring. This requirement for actual physical removal ensures that there is no scoring benefit for simply moving the waste and its associated risks to another portion of the same site. A removal action conducted under Superfund's emergency response program does not necessarily involve physical removal of wastes from the site. For example, Superfund removal actions, as defined in CERCLA section 101(23), may include stabilizing or containing waste on-site through engineering controls or limiting exposure potential by erecting fences or providing alternate water supplies. These types of actions do not constitute a qualifying removal.

The second requirement is that the removal must have occurred prior to the cutoff date applicable to the site. The HRS preamble states that EPA will only consider removals conducted prior to the SI. This requirement encourages prompt action and avoids the need to resample or rescore sites due to waste removals conducted after the SI. Because of differences in site assessment activities for different types of sites (e.g., EPA-lead, state-lead, Federal facilities), criteria for determining the appropriate cutoff date differ among sites. The next section provides detailed guidance on determining a site-specific cutoff date.

The third requirement is that all waste removed must be disposed of or destroyed at a facility permitted, as appropriate, under the Resource Conservation and Recovery Act (RCRA) or the Toxic Substances Control Act (TSCA) or by the Nuclear Regulatory Commission (NRC). This requirement encourages proper disposal of the removed waste and discourages simply moving the waste and its associated hazards to another location.

DETERMINING THE CUTOFF DATE

The paragraphs below describe how to determine the cutoff date for non-Federal and Federal facility sites and for sites with more than one SI.

Non-Federal Facility Sites with One SI

An SI for non-Federal facility sites generally begins with development of a workplan, which often includes the sampling strategy for the site. EPA believes it would disrupt Sls to consider the results of removal actions conducted after this point because to do so could require revising sampling plans, resampling, or rescoring the site. Because of variation in the way Regions have historically tracked Sls, it is impossible to define a single event as the cutoff date for sites that had Sls before the removal policy fact sheet was distributed in December 1991. Therefore, the cutoff date for those sites generally is the date development of a workplan for the Sl begins. Examples of dates that can be considered analogous to workplan development for purposes of determining the cutoff date include:

- SI start date in CERCLIS;
- Date of Technical Decision Document (TDD) or Technical Decision Memorandum (TDM) issued for work assignment to develop SI workplan;
- Date when EPA approves the site-specific SI workplan; or
- Date of an SI reconnaissance to develop SI workplan.

If no workplan or analogous event is available, the cutoff date is the earliest documented date that EPA conducted SI activities for the site. For all sites with Sls conducted after December 1991, Regions are expected to enter the date of site-specific workplan approval by EPA as the SI start date in CERCLIS, and that date should be used as the cutoff date for determining qualifying removals.

If EPA determines that previous investigations by other parties (e.g., states, EPA's removal program) are suitable for SI purposes, then the date when drafting of a Superfund SI report collating previous analytical data is begun serves as the cutoff date. The cutoff date is not the date of a state or PRP investigation conducted independently of CERCLA; the cutoff is based on the date these data are collated for Superfund SI purposes.

Non-Federal Facility Sites with Multiple SIs

For non-Federal facility sites with more than one SI, the cutoff date for most sites will be keyed to the first SI. However, the Agency may establish a later cutoff date under certain circumstances:

- If a second SI implementing a completely new sampling strategy is conducted, the Agency may consider basing the cutoff date on workplan development for the second SI. In these cases, considering removals prior to the second Sl is not likely to unduly disrupt the site assessment process.
- For sites where the first Sl was conducted more than four years prior to HRS scoring, the Agency may consider, on a case-by-case basis, changing the cutoff date to a later date. (CERCLA section 116, added by SARA, mandates that EPA conduct site assessment work within four years of CERCLIS listing.)

The transition to the revised HRS and the follow-up sampling needed for some sites may mean that site assessment activities take longer than four years. Follow-up sampling should not be used to determine a new cutoff date in that situation, even if more than four years have elapsed since the first cutoff date, unless a completely new sampling strategy is implemented.

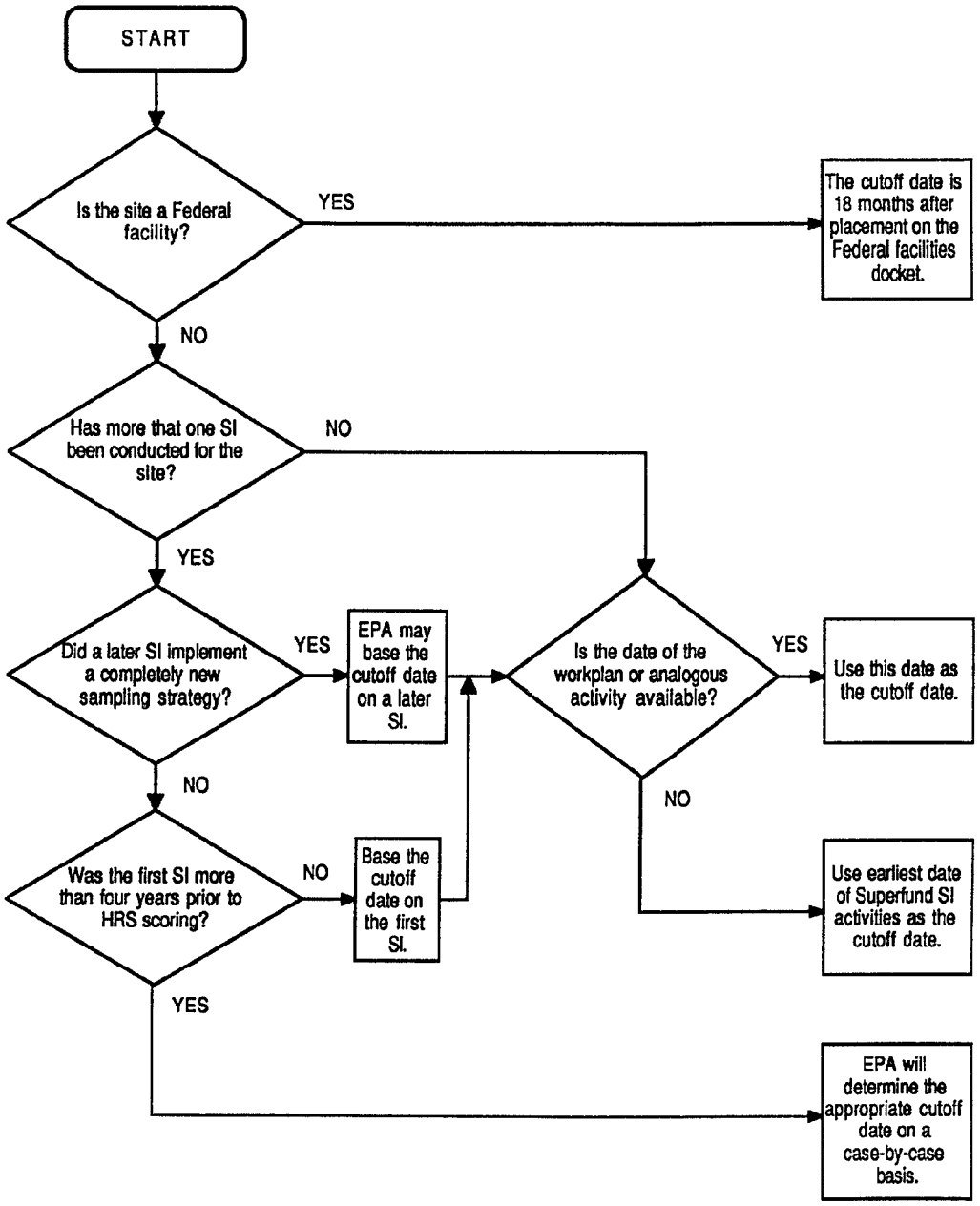
Federal Facility Sites

Federal facility sites undergo a somewhat different site process than other sites. Assessments of Federal facility sites are expected to be conducted within 18 months of their placement on the Federal Agency Hazardous Waste Compliance Docket, set up under CERCLA section 120(c), added by SARA. Therefore, the cutoff date for Federal facility sites is 18 months after the site is placed on the Federal facilities docket.

Summary

Highlight 2-1 is a flowchart for determining a site-specific cutoff date. ***Highlight 2-2*** provides examples of determining the cutoff date for hypothetical sites.

HIGHLIGHT 2-1
FLOWCHART FOR IDENTIFICATION OF THE CUTOFF DATE



HIGHTLIGHT 2-2
EXAMPLES OF DETERMINING CUTOFF DATE

SITE #1	
Site Assessment Activities	PA was conducted in May 1988 Sl sampling took place in October 1989. The date workplan development for Sl began is unknown; however, the date of the Technical Decision Document authorizing the contractor to develop an Sl workplan was dated July 1989. HRS package prepared began in January 1991.
Cutoff Date	**July 1989**: Cutoff date is the date analogous to workplan preparation.

SITE #2	
Site Assessment Activities	No PA was conducted. The State conducted an independent (i.e., non-Superfund) investigation of this site, including sampling in May 1988. The State issued a final report of the investigation in December 1988. In May 1990, EPA examined the State's December 1988 report. EPA decided this investigation constituted an Sl, and began drafting a Superfund Sl report in May 1990. The report was finalized in July 1990. HRS package preparation began in August 1991.
Cutoff Date	**May 1990:** Cutoff date is the date EPA began drafting an Sl report using previous analytical data, not the date of the state investigation or report on which EPA's report is based.

SITE #3	
Site Assessment Activities	PA was conducted in January 1989. EPA's emergency response program conducted a removal assessment in June 1989 and removed a number of corroding drums in July 1989. Development of an Sl workplan began in November 1989. Sampling took place in March 1990. HRS package preparation began in February 1991.
Cutoff Date	November 1989: Cutoff date is based on development of SI workplan, not on the date of the removal assessment.

(continued on next page)

HIGHTLIGHT 2-2 (continued)
EXAMPLES OF DETERMINING CUTOFF DATE

SITE #4	
Site Assessment Activities	PA was conducted In March 1986 Sl sampling was conducted by an EPA contractor In January 1987. No date for workplan development or analogous date Is available. The earliest identified date for Superfund Sl activities Is December 1986. A second Sl with a similar sampling strategy was conducted in September 1989. Limited sampling to collect additional data to support HRS scoring was conducted In April 1991. HRS package preparation began In August 1991.
Cutoff Date	**To be determined:** The cutoff date normally would be December 1986. This date (earliest identified date of Superfund Sl activities) is used because the date of workplan development for the first Sl is not available. In addition, the September 1989 and April 1991 Sl activities did not implement completely new sampling strategies. However, bemuse the first Sl was conducted more than four years prior to HRS scoring, EPA may determine a later cutoff date than December 1986 for the site.

SCORING CONSIDERATIONS WHEN A QUALIFYING REMOVAL HAS OCCURRED

A qualifying removal affects scoring of the hazardous waste quantity factor and also may affect the scoring of a number of other HRS factors. Scoring hazardous waste quantity for sites with qualifying removals is discussed in detail in the removal policy fact sheet. For a qualifying removal, do not count the amount of waste removed when scoring hazardous waste quantity. For a non-qualifying removal, score hazardous waste quantity as if the waste was not removed. For a partial qualifying removal, the waste removed generally may be subtracted from the total amount of waste, if the same hazardous waste quantity tier (e.g., both must be based on volume) can be used.

Changes in factors other than hazardous waste quantity caused by a qualifying removal should be considered in scoring a pathway only if all of the following conditions are met.

- Change in the factor was a direct result of a qualifying removal. For example, if during a qualifying removal waste is removed from a surface impoundment and the impoundment is refilled with clean soil, the clean fill can be considered in scoring factors other than hazardous waste quantity (e.g., containment) if the following two conditions are also met.

- No observed release of a hazardous substance associated with the source is established. If an observed release associated with the source involved in the qualifying removal is established, the effects of the removal are not considered in scoring factors other than hazardous waste quantity. This requirement is pathway specific. If, for example, an observed release is established for ground water but not for air or surface water, then changes in factors other than hazardous waste quantity can be considered in scoring the air and surface water pathways (as long as the other two conditions are also met).

- The removal completely eliminated the source or resulted in a containment factor value of zero for the source. if the removal is partial or if changes that result from the removal would result in a lower, but non-zero, containment factor value, the effects of the removal are not considered in scoring factors other than hazardous waste quantity. Again, this requirement is pathway-specific; the removal may result in a zero containment factor value for air but a non-zero containment factor value for ground water and surface water.

The requirements above apply to all HRS factors other than hazardous waste quantity. Instructions for applying these requirements to specific factors are provided below.

Observed Release

An observed release to a migration pathway, whether documented before or after a qualifying removal, can be used to score likelihood of release. That is, a qualifying removal does not negate the fact that the source has released substances to the environment. However, areas of observed contamination in the soil exposure pathway reflect continuing hazards at the site. Therefore, the soil exposure pathway factor is evaluated based on conditions that exist following a qualifying removal.

Source Containment and Source Type

Scoring of the containment and, for the air pathway, source type factors is affected only by qualifying removals that result in a factor value of 0. Changes in containment or source type that result in a lower but non-zero factor value are not considered in scoring.

Substance-specific Factors

Substance-specific factors cannot be based on a hazardous substance that was completely eliminated from a pathway by a qualifying removal. Such a removal must eliminate all sources of the hazardous substance, and no prior releases of the substance may have occurred. Substance-specific factors include:

- Toxicity
- Mobility
- Persistence
- Bioaccumulation potential
- Gas migration potential.

EPA generally will be unable to document complete elimination of a hazardous substance within the scope of an SI and will rely on PRPs to produce these data. If a portion of a source is eliminated in a qualifying removal, the remaining portion of that source is assumed to contain the same hazardous substances as the removed portion, unless the PRP can document otherwise (e.g., provide analytical results or manifest data that convincingly demonstrate a given hazardous substance is not present in the remaining portion of the source).

Targets Factors

Site-specific TDL (or distance categories) and the distance to nearest targets in migration pathways may change if a qualifying removal meets the three requirements above. In such cases, the source is eliminated from the pathway and, therefore, is not used to measure target distances. If a qualifying removal does not meet the three requirements above (e.g., an observed release of a hazardous substance associated with the source is established or the source containment factor value is non-zero), the source is included when measuring target distances for that pathway.

2.4 CERCLA POLLUTANTS OR CONTAMINANTS

HRS scores on the basis of likelihood of release of hazardous substances into the environment, waste characteristics (e.g., toxicity and quantity) on site, and the targets potentially affected by releases from the site. Therefore, the scorer must know what substances can and cannot be considered in scoring. The HRS definition of hazardous substance, with one exception, includes both CERCLA hazardous substances and pollutants or contaminants, as defined in CERCLA sections 101(14) and 101(33). Section 101(14) of CERCLA defines hazardous substances by referencing substances specifically listed under other Federal laws. Section 101(33) of CERCLA does not specifically list the substances considered to be n pollutants or contaminants," but instead gives the following definition:

> *"pollutant or contaminant shall include, but shall not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring ... ".*

Thus, the term "pollutant or contaminant" is very broadly defined in CERCLA and could include any substance known or reasonably anticipated to be harmful to human or ecological health. Because no substances are actually listed as pollutants or contaminants, either in CERCLA or in the HRS, the Agency determines on a case-by-case basis which substances fall within the definition. This determination is important because pollutants or contaminants may, for example, contribute to the waste quantity factor value, be used to determine substance-specific factor values, and affect source identification and targets evaluation. Direct any questions regarding whether a substance is a pollutant or contaminant, or how to score a site involving pollutants or contaminants, to the EPA Regional Site Assessment Manager.

These two basic HRS scoring scenarios involve releases of pollutants or contaminants:

- Substances at the site include only pollutants or contaminants (i.e., no CERCLA hazardous substances). This scenario is relatively unusual. Most sites that have been identified for potential listing contain a number of substances, usually including CERCLA hazardous substances. However, even if no GERCLA hazardous substances are identified, the site can be scored and is eligible for the NPL if at least one substance present is documented to be a CERCLA pollutant or contaminant. In these situations, the standard HRS scoring process is followed, except that Tier A under the hazardous waste quantity factor is not applicable.

- Substances at the site include both CERCLA hazardous substances and pollutants or contaminants. The scorer should follow the standard HRS scoring process. Before using a substance that is not a CERCLA hazardous substance in scoring, document that the substance qualifies as a CERCLA pollutant or contaminant.

Pollutants or contaminants are treated the same in the HRS as CERCLA hazardous substances except pollutants or contaminants cannot be used to score Tier A of the hazardous waste quantity factor.

2.5 STATUTORY AND POLICY EXCLUSIONS

A number of statutory and policy provisions affect a site's eligibility for CERCLA response actions and listing the NPL. CERCLA specifically excludes certain types of releases and wastes from response actions, and in some cases, it is more appropriate to conduct response under another

statutory authority. This section summarizes several statutory and policy exclusions that HRS scorers may encounter.

Although a site's eligibility for the NPL should be determined before HRS scoring begins, new information may surface during scoring that relates to site eligibility. HRS scorers should be familiar with general site eligibility considerations so they can recognize issues that need to be addressed by EPA Regional staff. For additional information on determining a site's eligibility under CERCLA, see *Guidance for Performing Preliminary Assessments Under CERCLA* (OSWER Publication 9345.0-01, September 1991) and *Regional Quality Control Guidance for NPL Candidate Sites* (OSWER Publication 9345.1-08, December 1991).

CERCLA PETROLEUM EXCLUSION

CERCLA sections 101 (14) and (33) exclude petroleum from the definitions of "hazardous substance" and "pollutant or contaminant," respectively. The exclusion applies to petroleum, including crude oil or any fraction thereof (if the fraction is not specifically listed nor designated a hazardous substance by other listed acts), natural gas, natural gas liquids, liquified natural gas, and synthetic gas usable for fuel.

The Regional Quality Control (QC) Guidance for NPL Candidate Sites (OSWER Publication 9345.1-08, December 1991) raises several issues to consider when scoring a site possibly containing petroleum or petroleum products:

- CERCLA does not define petroleum. Crude petroleum includes a number of hazardous substances that would otherwise be CERCLA hazardous substances, such as benzene, toluene, xylene, and ethylbenzene. In their pure forms, these substances remain hazardous substances and can be scored. When they are part of, or released directly from, a petroleum product, they cannot be used in scoring.

- The presence of petroleum products at a site, as a part of site contamination, does not exclude the site from consideration. Sites are excluded if they contain only excluded petroleum products.

- Releases of petroleum products contaminated with hazardous substances (i.e., used oil/waste oil contaminated with metals or PCBs) can be listed if the hazardous substances cannot be separated from the petroleum.

- If two distinct plumes commingle, one of petroleum and one of a hazardous substance that can be listed, the release can be listed; however, only the non-petroleum plume can be used in HRS scoring.

- A petroleum release can be used to show aquifer interconnection.

RADIOACTIVE MATERIALS

Section 101 (22) of CERCLA excludes a limited category of radioactive materials from the statutory definition of "release," making them ineligible for CERCLA response or the NPL. These are (1) releases of source (uranium or thorium, or any combination of the two, in any physical or chemical form), by-product (any radioactive material that was made radioactive by exposure to radiation from the process of using or producing special nuclear material), or special nuclear material (plutonium, uranium-233, enriched uranium-233 or -235, or any material that the NRC determines to be special nuclear material (not including source material)) subject to section 170 of the Atomic Energy Act; and (2) any release of source, by-products, or special nuclear material from any processing site specifically designated under the Uranium Mill Tailings Radiation Control Act of 1978.

The exclusion of these substances does not exclude other types of radioactive materials. However, it is Agency policy not to list releases of radioactive materials from facilities with a current license issued by the NRC (e.g., certain medical facilities, manufacturing plants, research laboratories). These facilities are under the authority of the NRC which is responsible for requiring and overseeing cleanup at these sites. All other types of radioactive materials sites, including state licensees and former NRC licensees, are eligible for the NPL.

RCRA SITE POLICY

In general, it is Agency policy to use RCRA Subtitle C authority to respond to sites that can be addressed under RCRA Subtitle C corrective action authority, and not to place such sites on the NPL (see generally, 54 *Federal Register* 41000, October 4, 1989). According to the Agency's NPL/RCRA deferral policy, however, some facilities subject to RCRA Subtitle C authority may be placed on the NPL when corrective action is unlikely to succeed (refer to the QC Guidance for more details). Sites subject to corrective action under RCRA Subtitle C authority which may be placed on the NPL include:

- Treatment, storage, or disposal facilities (TSDFs) that have demonstrated an unwillingness to undertake corrective actions;

- TSDFs that have demonstrated an inability to pay for cleanup, as evidenced by a bankruptcy filing or similar action;

- Former treatment or storage facilities that did not pursue a RCRA operating permit and have changed their RCRA status to "generator" or "non-handier" (these facilities are sometimes referred to as "converters"); and

- RCRA "Non- or Late Filers" (i.e., facilities that operated as TSDFs after the statutory deadline but either did not notify EPA or delayed notification).

If the scorer finds new evidence indicating that the site may be eligible for RCRA Subtitle C corrective action, notify the Regional EPA Site Assessment Manager.